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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,630

08/02/2006

Kin Fai Kam

KAM 0101 PUSA

4213

22045 7590 02/10/2009

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EXAMINER

CLINE, SALLY COLSON

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

02/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,630	<b>Applicant(s)</b> KAM, KIN FAI	
	<b>Examiner</b> Sally Colson Cline	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20061226</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-11, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiefer (USPN 3,089,145).

As to claim 1, Kiefer discloses headwear (6) with a portion that projects beyond the circumference of the head above the eyes (fig 1), support rods (7) connected to the projecting portion (fig 1) and having means at each free end (10) for detachable connection (column 2 line 4-6) to the temple arms (11) of a pair of spectacles.

As to claim 6, Kiefer discloses a number of holes (8). It is noted that “a number” does not specify how many holes, and could include any amount, including zero or one.

As to claim 7, Kiefer discloses the rods are permanent or detachable.

As to claim 8, Kiefer discloses the ends **can be** folded, because the rods are a spring material (col 2 line 9-21), and spring material inherently has bending properties. The rods are **capable** of being folded upwardly against the projection portion when not in use.

As to claim 9, Kiefer discloses the rods are a single piece attached to the projecting portion and having free ends.

As to claim 10, Kiefer discloses the rods are two separate elements (7, 8).

As to claim 11, Kiefer discloses a hook (10).

As to claim 17-18, Kiefer discloses the headwear is a brim or visor.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiefer.

As to claims 2 and 12, Kiefer discloses the claimed invention except for flexible support rods. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the support rods of Kiefer flexible, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

As to claims 3-5, Kiefer discloses the claimed invention except for adjustability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made any element of the invention of Kiefer adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

As to claims 13-15, Kiefer discloses the invention substantially as claimed, but does not expressly disclose magnets. It is well known in the art that various types of

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fastening mechanisms are functionally equivalent. Hooks, snaps, magnets, and adhesive are a few examples. These fasteners may be used interchangeably depending upon the desired aesthetic effect. Furthermore, the specification does not give an indication of why the magnets would be desirable over another fastener type.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kiefer in view of Schrack (USPN 4,768,231).

As to claim 16, Kiefer discloses the invention substantially as claimed, but does not expressly disclose catch elements. Schrack teaches a similar invention, including catch elements (17, 19) holding strings (16, 18) out of the way when not in use. The provision of both the strings and the catch elements in the projecting portion of the headwear represents a minor design variation that the skilled person would consider without the exercise of inventive skill. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Kiefer with the catch elements and strings of Schrack for the purpose of attaching eyewear and fastening the strings so that they do not block the vision of the wearer.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892 Notice of Reference Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally Colson Cline whose telephone number is (571)272-6731. The examiner can normally be reached on M - F, 9AM - 5PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sally Colson Cline  
Examiner  
Art Unit 3765

Scc

/Gary L. Welch/  
Supervisory Patent Examiner, Art Unit 3765